

IV. AMENDMENTS TO THE DRAWINGS

- THE DRAWINGS OF THE PATENT IS HEREBY AMENDED AS SET FORTH BELOW:
 - *No Amendment Made to the Drawings*
 - *Attachments: None*

V. REMARKS/ARGUMENTS

- STATUS OF THE CLAIMS

Claims 2, 4 and 7 remain pending in this application. Claim 1 has been cancelled herein. Claims 2, 4 and 7 are currently amended herein. Claims 3, 5 and 6 have been withdrawn from consideration due to the Examiner's holding final the restriction requirement of March 21, 2005 (mail date).

- ELECTION/RESTRICTION

- Examiner's Stance

The Examiner has recognized Applicants' election with traverse of Group 1, claims 1 – 2, 4 and 7. The Examiner has countered Applicants' traverse in respect of the restriction requirement of March 21, 2004 (mail date), and has made the requirement FINAL.

- Applicants' Response

While maintaining their traverse, Applicants herein accept the finality of the restriction requirement.

- OBJECTIONS

- OBJECTIONS TO CLAIMS

- Examiner's Stance

The Examiner objects to claim 4 in that it uses the phrase "pheno-thiazine" rather than "phenothiazine." The Examiner requires appropriate correction.

- Applicants' Response

Applicants extend their appreciation to the Examiner for pointing out such obvious typographical error. Appropriate correction has been made.

- REJECTIONS
 - REJECTION UNDER 35 U.S.C. §103 (a)
 - Examiner's Stance

The Examiner has rejected claims 1 – 2 and 7 under 35 U.S.C. §103 (paragraph 4 of the Office Action) as being unpatentable over Mellish *et al.* “In vitro photodynamic activity of a series of methylene blue analogues,” Photochem. Photobiol., Vol. 75(4) pp. 392 -397. The Examiner asserts that “[c]ited reference teaches the synthesis of N3, N3, N7, N7-Tetra-n-propyl-3,7-diaminophenothiazine-5-ium iodide at page 396 (see compound 3, R=C3H7)” and that “[t]he instant invention differs from the prior art in that the synthesis of [7-propylamino)phenothiazene-3-ylidene]dipropylamine in the instant claim 1 involves the reaction in the presence of bromine ... [rather than] iodine” (paragraph 4 of the Office Action). The Examiner argues that “[s]ince iodine and bromine are halogens and can be used alternatively, it would have been obvious to the skilled in the art at the time of the invention was made to change the iodine to bromine since it was expected that bromine and iodine to [sic] react almost the same way” (paragraph 4 of the Office Action).

- Applicants' Response

Applicant respectfully traverses the rejection of claims 1, 2 and 27 based in part on the argument that one of ordinary skill in the art would not find the reaction schemes of the claimed embodiments having a reasonable expectation of success in light of the prior art.

Initially, Applicants assert that the rejection of claim 1 is obviated by cancellation of the claim. Applicants direct their comments to claims 2 and 27 as amended.

Applicants note that claim 2 and 27 have been amended to require copper in the reaction schemes asserted. Applicants note the Examiner's assertion that “[c]laims 2 and 7 are rejected because the presence of the copper is optional” (paragraph 4 of the Office Action). By amendment of claims 2 and 27 to require the presence of copper, Applicants assert that the claims are now patentable.

CONCLUSION TO REMARKS

Applicants assert that this response is fully responsive to the Examiner's office action dated August 5, 2005. Applicants respectfully seek early allowance of the pending claims.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Steve Moore", is written over a horizontal line.

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VI. APPENDIX

- *No pages are attached*